

Records Maintenance and Release

120.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the maintenance and release of Cook County Sheriff's Office records in accordance with applicable state and federal law. This policy is also intended to protect against the unwarranted invasion of personal privacy and the disruption of the mission of the Sheriff's Office, independent of the rights of the public to access information.

This policy addresses records held and/or subject to release by the Sheriff's Office. Records maintained by other entities within the Sheriff's Office, including records subject to Freedom of Information Act (FOIA) requests, are not covered by this policy (refer to the Freedom of Information Act Policy for further guidelines). Members should refer to the appropriate policy manual and section for protocols dealing with the release of such documents.

Protected information is covered separately in the Protected Information Policy.

120.1.1 ISSUANCE/EFFECTIVE DATE

This policy was re-issued on Mar. 1, 2018 and shall become effective upon issuance (statutory updates).

120.2 POLICY

It is the policy of the Cook County Sheriff's Office to promote transparency and accountability. Accordingly, the Sheriff's Office will provide public records as expediently and efficiently as possible in the interest of full and complete disclosure of information regarding decisions, policies, procedures and other aspects of Sheriff's Office operations.

Each department shall refer all FOIA matters to the Sheriff's Office Freedom of Information Act Officer (FOIA Officer).

120.3 CUSTODIAN OF RECORDS RESPONSIBILITIES

The respective department head shall designate a Custodian of Records who shall work in coordination with the FOIA Officer. The responsibilities of the Custodian of Records include, but are not limited to (5 ILCS 140/3.5; 5 ILCS 140/4; 5 ILCS 140/5; 5 ILCS 179/35):

- (a) Managing the records management system for the Department, including the retention, archiving, release and destruction of department public records.
- (b) Maintaining and updating the department records retention schedule including:
 - (a) Identifying the minimum length of time the Department must keep records.
 - (b) Identifying the section responsible for the original record.
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records.

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- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring a current schedule of fees for public records as allowed by law is available.
 - 1. No fees shall be charged for the first 50 pages of copies as per 5 ILCS 140/6(b).
 - 2. Fees charged for copying public records shall be limited to the actual cost of duplication or publication.
 - 3. The cost of search, examination, review, and the redaction and separation of exempt from non-exempt information will not be assessed.
- (g) Ensuring the prominent display at the department's headquarters of information that conveys the department's mission, budget, office locations, number of employees and an organizational chart that depicts the department structure and the relationship of the Department to County government. This information also needs to be available on the Department or County website.
- (h) Ensuring information identifying the FOIA Officer, the categories of available records and the process for requesting public records, including the address for submitting requests, will also be displayed.
- (i) Working with the FOIA Officer to develop a list of documents or categories of records that the Department shall immediately disclose upon request.
- (j) Promptly remediating any deficiencies in the FOIA Officer's public records management activities.
- (k) Expeditiously advising the respective department head of any denials of public records requests, issues associated with the processing of records requests and requests that may involve potentially sensitive or newsworthy matters.
- (l) Consulting with the respective department head in the event further information is needed regarding the appropriate response to a records request.
- (m) Submitting monthly reports to the Illinois State Police (ISP) regarding arrest-related deaths, firearm discharges by members, hate crimes, domestic crimes, index crimes and school incidents pursuant to the Uniform Crime Reporting Act (50 ILCS 709/5-12).
- (n) Submitting a quarterly report to the ISP that includes incident-based information on any criminal homicide pursuant to 50 ILCS 709/5-15.
- (o) Establishing a procedure for an individual to access, review and confirm the expungement of civil law citations issued to him/her for violations of 720 ILCS 550/4(a) or 720 ILCS 600/3.5(c) (20 ILCS 2630/5.2).
- (p) Establishing procedures for the protection of Social Security information pursuant to the Identity Protection Act and proper filing and posting of appropriate policy and procedures (5 ILCS 179/35).
 - 1. The procedures should include proper collection, handling, dissemination, and access restrictions of information that contains Social Security numbers.

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120.3.1 COURT FILES

The facility/unit head or the authorized designee shall be responsible for preparing files requested for court appearances. Original documents should not be sent to court unless specifically required by subpoena. If a subpoena is issued for an original document, a copy of the subpoena shall be placed in the appropriate file and the requirements of this policy shall also be followed.

120.3.2 INFORMATION ABOUT PUBLIC RECORDS

Requests for information about Sheriff's Office public records other than those handled directly by the respective department shall be referred to the FOIA Officer.

120.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any member who receives a request for any record shall route the request to the FOIA Officer or the authorized designee. All Sheriff's Office records are presumed to be open to inspection or copying (5 ILCS 140/1.2).

120.4.1 REQUESTS FOR RECORDS

Any records related to convictions, dispositions and/or trial transcripts not maintained by the Sheriff's Office should be directed to the Clerk of the Circuit Court of Cook County.

Records authorized for handling and immediate release by the respective department are limited to the following:

- (a) Reports requested by the victim/complainant in which only the victim/complainant is listed on the report.
- (b) Official, formal requests by other law enforcement agencies for reports directly related to lawful law enforcement purposes.
 - 1. A record shall be kept of the official request and the requester (e.g., request on official letterhead, requester credentials).
- (c) Traffic crash reports (SR 1050s).

120.4.2 PUBLIC ACCESS COUNSELOR

See the Freedom of Information Act Policy, subsection entitled Public Access Counselor.

120.4.3 FILE ACCESS AND SECURITY

Original confidential files are retained within their respective facilities/units, unless an exception is noted elsewhere within this manual (e.g., Peace Officer Personnel Files Policy).

Members shall not access, view, distribute, or allow anyone else to access, view, or distribute any record, file, or report, whether hard copy or electronic file format, except in accordance with Sheriff's Office policy and with a legitimate law enforcement or business purpose, or as otherwise permissible by law.

120.4.4 REQUESTING ORIGINAL REPORTS

Generally, original reports shall not be removed from the respective facility/unit. Should an original report be needed for any reason, the request will be submitted to the respective facility/unit head,

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who will make the determination whether or not the original will be released. All original reports removed from the respective facility/unit shall be recorded, and that removal documented within the case file.

In all such cases, original reports shall only be removed after the respective facility/unit head has ensured that an accurate and complete copy of the original report has been made to take its place in the respective facility/unit.

120.4.5 NUMERICAL FILING SYSTEM

Case reports are filed numerically within the facility/unit of origin. Reports are numbered commencing with the CAD agency code (e.g., SO for the Court Services Department) followed by a dash symbol (-), then the last two digits of the current year followed by a dash symbol (-), followed by an eight-digit sequential number beginning with 000001, starting at midnight on the first day of January of each year. For example, case number SO-17-00000001 would be the first new case report for the Court Services Department beginning Jan. 1, 2017. The eight-digit sequential number will have leading zeros added to make it eight characters long.

120.5 GENERAL CASE AND CRIME REPORTS

120.5.1 ARREST REPORTS

Requests for arrest reports should be referred to the FOIA Officer.

See the subsection entitled Arrest Records below for arrest reports released by the Sheriff's Press Office.

120.5.2 PERSONNEL RECORDS

Requests for personnel records should be referred to the FOIA Officer.

120.6 RELEASE RESTRICTIONS

The Office FOIA Officer should be consulted with regard to classification of records under this section.

Examples of release restrictions include:

- (a) Personal identifying information, including an individual's photograph, Social Security and driver identification number, name, address and telephone number, and medical or disability information that is contained in any driver's license record, motor vehicle record or any Sheriff's Office record, including traffic crash reports, are restricted except as authorized by the Sheriff's Office, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- (b) Private information including, but not limited to, unique identifiers such as Social Security numbers, driver's license numbers, employee identification numbers, biometric identifiers, personal financial information, passwords or access codes, medical records, home or personal telephone numbers, home address, personal email addresses or personal license plates (5 ILCS 140/7(1)(b); 5 ILCS 140/2(c-5)).

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- (c) Confidential information involving confidential informants, intelligence information, information that would endanger the safety of any person involved or information that would endanger the successful completion of an investigation (5 ILCS 140/7; 5 ILCS 140/2.15(b)).
 - (a) Analysis and conclusions of investigating sworn members (5 ILCS 140/7(1)(f)).
- (d) The identity of child victims of criminal sexual offenses (725 ILCS 190/3) and reports of elder abuse and neglect (320 ILCS 20/8).
- (e) Records regarding juveniles under 18 years of age (705 ILCS 405/1-7; 705 ILCS 405/5-905).
- (f) Sheriff's Office records that would obstruct an ongoing investigation or pending administrative enforcement proceeding (5 ILCS 140/7).
- (g) Information contained in personnel and other public records that would constitute an unwarranted invasion of personal privacy, in which the individual's right to privacy outweighs any legitimate interest in obtaining the information.
 - 1. The disclosure of personal information that bears on the public duties of employees of the Sheriff's Office shall not be considered an invasion of personal privacy (5 ILCS 140/7(1)(c)).
 - 2. The disclosure of employee performance evaluations is prohibited (820 ILCS 40/11).
- (h) Records that were created exclusively in anticipation of potential litigation, which would not be subject to discovery or which may be subject to an attorney-client privilege involving the Sheriff's Office (5 ILCS 140/7(1)(m)).
- (i) Any record relating to vulnerability assessments, security measures and response policies or plans (5 ILCS 140/7(1)(v)).
- (j) Body-worn camera recordings as provided in the Law Enforcement Officer-Worn Body Camera Act (5 ILCS 140/7.5).
- (k) Certain records requested by a person committed to the Department of Corrections or a county jail (5 ILCS 140/7).

120.7 ARREST RECORDS

Arrest records subject to release by the Sheriff's Press Office include the provisions of this section.

Arrest report information that identifies an individual, any charges, time and location of arrest, name of the investigating department, incarceration or bond information shall be furnished as soon as practicable but in no event later than 72 hours after arrest (5 ILCS 140/2.15(a)).

Information concerning an arrest must be made available to the news media for inspection and copying absent specific exceptions. The information shall be made available as soon as practicable but in no event later than 72 hours after arrest (5 ILCS 160/4a; 50 ILCS 205/3b).

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If the request is made by a criminal defendant or an authorized representative (including attorneys), then the Illinois State's Attorney, State's Attorney, Illinois Attorney General, local prosecutor or the courts, as applicable, should be promptly notified.

Persons requesting conviction information should be directed to the Illinois State Police.

120.7.1 REQUESTS TO RETRACT OR DELETE ARREST RECORDS

Requests from a Chief of Police, county Sheriff or State's Attorney to delete or retract arrest records of individuals mistakenly identified should be forwarded to the Custodian of Records for handling (5 ILCS 160/17; 50 ILCS 205/4).

120.7.2 RELEASE OF RECORDS BY SUBPOENA OR REQUEST PROCEDURES

All records requested by the Cook County State's Attorney's Office shall be complied with and delivered in the most efficient manner including using the Cook County email system.

120.8 SUBPOENAS AND DISCOVERY REQUESTS

Any request for discovery shall be referred to the Sheriff's Legal Department.

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be delivered to the office of the presiding judge, pursuant to relevant subpoena instructions.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Sheriff's Office so that a timely response can be prepared.

Compliance with a subpoena should be accomplished no less than 24 hours before the court date. See the Court Appearances and Subpoenas Policy for more information.

120.9 RELEASED RECORDS TO BE MARKED

Each page of any written record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released.

Each audio/video recording released should include the department name and to whom the record was released.

120.10 SECURITY BREACHES

Members who become aware that a Sheriff's Office system containing personal information may have been breached should notify the Custodian of Records as soon as practicable.

The Custodian of Records shall (815 ILCS 530/10):

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- (a) Ensure notice of any breach of the security of personal information is given to the appropriate individuals/entities any time there is a reasonable belief that an unauthorized person has acquired personal information, as defined in 815 ILCS 530/5, stored in any Sheriff's Office information system.
- (b) Cooperate with the appropriate individuals/entities by providing the date or approximate date of the breach and identifying any steps taken or that will be taken relating to the breach.

120.11 EXPUNGED OR SEALED RECORDS

Expungement and sealing orders received by the Sheriff's Office shall be reviewed for appropriate action by the respective Custodian of Records. The Custodian of Records shall expunge such records as ordered by the court. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction. Once expunged, members shall respond to any inquiry as though the record did not exist (20 ILCS 2630/5.2).

All requests for arrest or criminal history record information that has been expunged, sealed or impounded and the use of those records is subject to the provisions of Section 2-103 of the Illinois Human Rights Act (775 ILCS 5/2-103):

- (a) **Official access** - Most sealed records are subject to inspection and use by the court, law enforcement agencies and Illinois State's Attorneys or other prosecutors in carrying out the duties of their offices (20 ILCS 2630/13).
- (b) **Public access** - Most sealed records are exempt from disclosure under the Illinois Freedom of Information Act (20 ILCS 2630/13(c); 5 ILCS 140/1).
- (c) **Fictitious vital records** - Establishing vital records to protect witnesses or law enforcement officials with new identification shall not be disclosed (410 ILCS 535/15.1).

Each department's respective Custodian of Records shall ensure an internal procedure is established for the proper handling of orders for records expungement or sealing. If the respective Custodian of Records has any questions or requires additional internal training on these matters, he/she should promptly contact the Sheriff's Police Department Records Section supervisor.

120.11.1 CIVIL LAW VIOLATIONS

On or before January 1 and July 1 of each year, the Custodian of Records or FOIA Officer shall expunge records of any person who committed civil law violations of 720 ILCS 550/4(a) (possession of not more than 10 grams of cannabis) or 720 ILCS 600/3.5(c) (possession of related drug paraphernalia) (20 ILCS 2630/5.2).

120.11.2 ARREST RECORDS

When a request is made for arrest records of an individual whose records were retracted or deleted in the case of mistaken identity in accordance with 5 ILCS 160/17 and 50 ILCS 205/4, members should respond that no such records exist.

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120.11.3 JUVENILE RECORDS

On or before Jan. 1 of each year, the Custodian of Records or FOIA Officer shall expunge juvenile records as required by 705 ILCS 405/5-915 unless the respective department head or the authorized designee certifies in writing that a record is necessary for a pending investigation of a felony. In that case, only the relevant records may be retained until the investigation is completed, or for one additional year, whichever occurs first.

Within 60 days after receipt of a court expungement order or date of automatic expungement, the Custodian of Records or designee shall send a written notice of expungement to the subject of the expungement (705 ILCS 405/5-915).

Unless expunged, juvenile records shall be sealed by the Custodian of Records or FOIA Officer (705 ILCS § 405/1-7).